

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

LARRY RONNE-STOMBAUGH,

Petitioner,

vs.

TERRY WENGLER,

Respondent.

NO. CV-07-0082-JLQ

ORDER DENYING RESPONDENT'S
MOTION FOR RECONSIDERATION

BEFORE THE COURT is Respondent's Motion for Reconsideration of this court's previous Order. Petitioner is proceeding **pro se**. Assistant Attorney General Ronda D. Larson represents Respondent. Having reviewed the record, and being fully advised in this matter, **It Is Hereby Ordered** that Respondent's Motion for Reconsideration is **DENIED** for the following reasons.

Petitioner Larry Ronne-Stombaugh is in the custody of the Washington Department of Corrections pursuant to a conviction for first degree assault with a deadly weapon and first degree burglary with a deadly weapon, committed on October 21, 2002. The factual background of this case is set forth in this court's previous Order and will not be repeated here.

Respondent claims that this court erred in its previous Order in relying on the case of *Harmon v. Ryan*, 959 F.2d 1457 (9th Cir. 1992) finding that because the Petitioner had challenged his burglary conviction in the Washington Supreme Court, he had exhausted the state remedies for that claim. Respondent cites the case of *O'Sullivan v. Boerckel*, 526 U.S. 838 (1999), which held that in order to satisfy the exhaustion requirement, a prisoner is required to present his claims to the state supreme court for discretionary review, which is exactly what Mr. Ronne-Stombaugh did here giving the Washington Supreme Court a fair opportunity to address this issue. It rejected that challenge and Mr. Ronne-Stombaugh has no other possible state remedies to pursue.

Accordingly, the Respondent's Motion for Reconsideration of this court's previous

1 Order is **Denied** . Respondent is again directed to serve and file further briefing
2 addressing Petitioner's fourth burglary conviction claim on or before February 18, 2008.
3 The court will then determine whether any further filings are required before ruling on the
4 Petition for Writ of Habeas Corpus.

5 **IT IS SO ORDERED.** The Clerk is directed to enter this Order and
6 forward copies to Petitioner and to counsel for the Respondent.

7 **DATED** this 8th day of February, 2008.

8 s/ Justin L. Quackenbush
9 JUSTIN L. QUACKENBUSH
10 SENIOR UNITED STATES DISTRICT JUDGE
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